

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CLOVIS UNIFIED SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2014010902

ORDER DENYING REQUEST FOR
STATUS CONFERENCE, GRANTING
REQUEST FOR CONTINUANCE, AND
SETTING PREHEARING
CONFERENCE AND HEARING
DATES

On March 7, 2014, Clovis Unified School District (Clovis) submitted a notice of pending settlement, a request to reschedule the telephonic prehearing conference (PHC) set for March 10, 2014, at 1:00 p.m. as a status conference for March 17, 2014, and a request to vacate scheduled hearing dates. Student did not submit a response. For the reasons discussed below, the request to schedule a status conference is denied. The remaining request is deemed a motion to continue the PHC and due process hearing dates. A brief continuance is granted for the PCH and due process hearing.

The Office of Administrative Hearings (OAH) conducts status conferences in limited circumstances. Specifically, a status conference will be scheduled when a final settlement agreement has been executed but the agreement is pending further action, such as school board approval. According to the request in this case, the parties have reached an agreement and are currently circulating the final agreement for signatures. The agreement is not yet final and there is no representation that the final agreement is pending school board approval. Therefore, the request for a status conference on March 17, 2014, is denied.

As noted above, a PHC is scheduled for March 10, 2014, at 1:00 p.m. The parties, however, are currently circulating a settlement agreement and Clovis' request is deemed a motion to continue the PHC and due process hearing dates currently scheduled to commence on March 18, 2014. A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules

of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

Granted. All dates are vacated. This matter will be set as follows:

Prehearing Conference: March 17, 2014, at 1:00 p.m.
Due Process Hearing: March 25, 2014, at 9:30 a.m., and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

DATE: March 10, 2014

/s/

JOY REDMON
Administrative Law Judge
Office of Administrative Hearings